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**OFFICE OF PETITIONS**

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BOSTON MA 02109

In re Patent No. 7,915,306	:	DECISION ON REQUEST
Chiba et al.	:	FOR
Issue Date: March 29, 2001	:	RECONSIDERATION OF
Application No. 10/657,910	:	PATENT TERM ADJUSTMENT
Filed: September 9, 2003	:	and
Atty Docket No. EISN-018CPRCE	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 31, 2011 pursuant to 37 C.F.R. § 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by at least four hundred and ninety (490) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred and twenty-four (524) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on September 10, 2006 and ends on October 22, 2009, the day before the RCE was filed, which amounts to 1139 (not 935<sup>1</sup>) days. See U.S.C. 154(b)(1)(B)(i).

Moreover, a notice of appeal was filed on May 7, 2009, and a Request for Continued Examination (RCE) was filed on October 23, 2009. The 170 days of the over three year period consumed by

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<sup>1</sup> Petition, page 2.

appellate review, beginning on May 7, 2009 and ending on October 22, 2009, the day before the RCE was filed, is not included in the B delay. See 35 U.S.C. § 154(b)(1)(B)(ii).

As such, the patent term adjustment is increased by 524 (183 days of examination delay plus 1139 "B-delay" minus the aforementioned excluded 170 days minus 628 days of Applicant delay) days, not 525 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred and twenty-four (524) days**.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this patent, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to to the address which appears on the petition. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this patent unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified patent. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found at <http://www.uspto.gov/web/forms/sb0123.pdf>.

If appropriate, a change of fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in

If appropriate, a change of fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in accordance with Manual of Patent Examining Procedure, section 2540.

A blank fee address form may be found at  
<http://www.uspto.gov/web/forms/sb0047.pdf>.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3225.

/Paul Shanoski/  
Paul Shanoski  
Senior Attorney  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

cc: Brian C. Trinqué  
Lathrop & Gage, LLP  
28 State Street  
Boston, Massachusetts 02109

UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,915,306 B2

DATED : March 29, 2001

**DRAFT**

INVENTOR(S) : Chiba et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 525 days

Delete the phrase "by 525 days" and insert – by 524 days--